

Scottish Environment Protection Agency	Business Guidance: BP-HR-088
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	Issue No: 2
	Issue date: 08/03/2016
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	Originator: Senior HR Advisor
	Authorised by: Head of HR

1. Introduction

This guidance has been written to support the Shared Parental Leave policy. The aim of this guidance is to provide staff members with an overview of Shared Parental Leave (ShPL) and Shared Parental Pay (ShPP), and to reflect how it will operate alongside or instead of traditional Maternity/Adoption or Paternity Leave policies.

The Additional Paternity Leave Scheme which has been in place since 2011 has now been superseded by this policy, therefore, expectant fathers or partners who wish to take a longer period of family leave, would do so via Shared Parental Leave. Staff members who have either had a baby or been placed with a baby prior to 05 April 2015 will still be entitled to the current Maternity, Paternity and Additional Paternity Leave provisions in place.

Maternity leave cannot be brought to an end before the end of the two week compulsory maternity leave period. The balance of maternity leave at that point becomes available for the partner to share as shared parental leave and pay.

Whilst the mother must take the compulsory two week maternity leave, the father/partner can take Shared Parental Leave following the birth or placement of the child. However it is important to note that if the father/partner opts to take Shared Parental Leave directly after the birth or placement and does not use their paternity leave and associated pay, they will then lose the right to paternity leave and pay.

2. What is Shared Parental Leave?

- 2.1 Shared Parental Leave has been designed to give parents or adopters more flexibility in how they share the care of their child in the first year following its birth or adoption.
- 2.2 Shared Parental Leave applies to SEPA staff members who are either: parents, adopters, spouses, partners (including civil partners).
- 2.3 Eligible staff members can share up to 50 weeks leave and 37 weeks of statutory Shared Parental Pay and can decide to be off work at the same time and or to take it in turns with their partner to have periods of shared leave to look after their child.
- 2.4 The rate for ShPP is set by the government and details of the rate can be found on <https://www.gov.uk/shared-parental-leave-and-pay/what-youll-get>.
- 2.5 There is only one period of Shared Parental Leave and Pay available for each instance of pregnancy or adoption regardless of the number of children born or placed.

3.0 Eligibility

- 3.1 You or your partner must be entitled to maternity/adoption leave, or statutory maternity/adoption pay (or maternity allowance payable by the Government) and you must share the main responsibility for caring for the child with your partner. In

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addition, you and your partner will also be required to follow a two-step process to establish eligibility.

- 3.2 Step 1 continuity test: if you are seeking to take shared parental leave, one parent/adopter must have worked for the same employer for at least 26 weeks at the end of the 15th week before the week in which the child is due (or the week in which an adopter was notified of being matched with a child and they should still be employed at commencement of shared parental leave.
- 3.2.1 The other parent/adopter must have worked for 26 weeks in the 66 weeks leading up to the due date and have earned about the maternity allowance threshold which is £30 a week for 13 of the 66 weeks.
- 3.2.2 Step 2 Individual eligibility to pay: to qualify for shared parental pay the parent/main adopter must, as well as passing the continuity test, also have earned an average salary of the National Insurance lower earnings limit or more for the 8 weeks prior to the 15th week before the expected birth/adoption.
- 3.3 SEPA may ask for further evidence of eligibility. If this is required this will be done within 14 days of receiving your notice of curtailment. Employees must provide the additional information required within 14 days of our request.
- 3.4 Fraudulent information or claims may result in disciplinary action being taken in line with SEPA disciplinary procedure.

4.0 How do I request Shared Parental Leave?

- 4.1 Female staff members who wish to take Shared Parental Leave must end (curtail) their maternity or adoption leave giving at least eight weeks' notice. You should complete a "Notice of curtailment of maternity /adoption leave and intention to take shared parental leave" form (Form A) and indicate how much shared parental leave and pay each parent expects to take and the proposed dates. At this time this is non-binding; you are free to change your mind by notifying SEPA of the change in writing.
- 4.2 You can make up to three notification requests for leave but each request must be made at least eight weeks before the start of the leave period. Any requests to vary leave will count as part of your three notifications. These requests may be for:
- A single period of leave (continuous leave); and
 - Any weeks of leave where you intend to return to work between periods of leave (discontinuous leave).
- 4.3 Shared Parental Leave must be taken in blocks of at least one week and can begin on any day of the week.

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- 4.4 As mentioned previously the mother/main adopter must end their maternity/adoption leave and associated payments and confirm that they intend to return to work (Form A). It is important to note that once you have returned to work you cannot revert back to Maternity Leave and the associated payments.
- 4.4.1 Whilst notice of the curtailment of maternity/adoption leave can be given before or after the birth or placement, if it is given afterwards the notice becomes binding.
- 4.4.2 If the notice of curtailment is given before the birth or placement, there is a six week window after the birth or adoption, during which time the mother/primary adopter can change their mind and decide to remain on maternity leave.
- 4.4.3 You can withdraw your curtailment notice if you have not returned to work and the curtailment date has not passed and one of the following applies:
- Where it is discovered in the eight weeks following the notice that neither the Mother nor their Partner is entitled to Shared Parental Leave and or Pay; and
 - Death of their partner.
- 4.5 If you submit a request for a single continuous period of shared parental leave (e.g. a single block of 12 weeks) this will be granted automatically. Line Managers should consider how best the absence could be covered.
- 4.5.1 If the request is for discontinuous leave (e.g. 6 weeks shared parental leave followed by two weeks at work followed then by another 6 weeks of shared parental leave) this should be considered by the line manager in order to ascertain whether the business could support this type of leave. If the business cannot support this request the line manager will work with the staff member to agree alternative dates. The staff member must complete a notice to take or vary a period of shared parental leave form (Form B) to request alternative dates
- 4.6 If more than one period of leave is requested in the same notice, the line manager has 14 days in which to consider and either agree or decline the pattern of leave requested.
- 4.7 If alternative dates cannot be agreed, or the request is refused, the employee does have the option to take all of the leave requested as a single period of leave. This can either start on the first period of leave originally requested or on another date that the employee chooses, provided that there is eight weeks' notice of the revised start date.
- 4.8 Alternatively the staff member has five days from the end of the 14 day discussion period to notify their line manager of any new leave start date. Or they can choose to withdraw the notice to take leave within 15 days of the date that the notice was originally given. In these circumstances where the original request was refused it will not count as one of the three requests staff members can make.

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4.9 If the employee decides to end their Shared Parental Leave and or Shared Parental Pay (Form C) early they must give at least eight weeks written notice. They should do this by completing a “Notification to end Shared Parental Leave and Shared Parental Pay” form. This document is available on the HR Intranet Pages.

4.9.1 This will count as one of the three notifications. If the employee has already used their three notifications they should be aware that SEPA does reserve the right to refuse a request if it is not reasonably practicable for the line manager to accommodate their early return.

5. Employee rights and Keeping in Touch Days

5.1 During a period of shared parental leave individuals will be entitled to the same terms and conditions that would have applied had they not taken the leave, with the exception of pay. All shared parental leave will be:

- Pensionable;
- Count as reckonable service including for purposes of incremental pay; and
- Included within any probationary period.

5.2 If the employee returns after a period of shared parental leave which was 26 weeks or less, then they are entitled to return to the same job that they left with terms and conditions no less favourable than would have applied had they not been on leave.

5.2.1 If the employee returns from a period of shared parental leave which was greater than 26 weeks SEPA will try to facilitate their return to the same role. If it is not practicable for the employee to return to their substantive post they will be offered a suitable alternative position.

5.3 If it is decided to carry out a restructure of the employees department during their Shared Parental Leave, they will continue to be employed in their substantive role and will be fully consulted regarding any changes to their substantive post. The fact that the employee is absent from their post will not be used as a selection criteria for potential displacement or redundancy.

5.4 If, following consultation, the employee has no role to return to within their function; SEPA will consult with the employee with a view to redeploying them to an alternative position which constitutes as suitable alternative employment.

5.5 Whilst on Shared Parental Leave the employee will continue to accrue annual leave and public holiday entitlement. The line manager may ask them to take some or all of their outstanding leave prior to commencing Shared Parental Leave, equally they might request that the employee uses some or all of the annual leave accrued whilst on Shared Parental Leave prior to them returning to work.

5.6 An employee's pension rights during the first 37 weeks of Shared Parental leave (i.e. the part that is paid) will be protected and they will continue to accrue benefits under **“This document is uncontrolled when in hard copy or stored in any electronic format other than in the Business Management System”**.

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the Local Government Pension Scheme and SEPA will continue to pay employer's contributions.

5.6.1 During any period of unpaid Shared Parental leave i.e. the final 13 weeks, an employee will not accrue benefits under the Local Government Pension Scheme. However, they will be given the option to "top up" their contributions on their return.

5.7 Work equipment which is available for personal use, such as mobile phones can be retained for personal use during Shared Parental Leave. The employee will continue as normal, to meet the associated costs of such personal use.

5.8 A manager may ask the employee to stay in touch during their shared parental leave. This could be for training purposes, meetings or just to keep generally up to date with the business. During Shared Parental Leave employees can work up to 20 KIT days without bringing their shared parental leave to an end. Any days worked does not extend the shared parental leave period. Employees are under no obligation to undertake any work during your shared leave period, and SEPA is under no obligation to offer them any work during this period. The 20 days are in addition to 10 KIT days available during maternity or adoption leave.

5.8.1 Any work undertaken, regardless of the duration will count as a whole KIT day used so if you attend work for a one hour team meeting this will be classed as one full day. On a KIT day you will be paid for the number of hours that you work.

6. Returning to work after a period of Shared Parental Leave and Pay?

6.1 If the employee wishes to alter their return date they must give at least 8 weeks' notice.

7. Responsibilities

7.1 Line Managers are responsible for ensuring that they implement this policy in a fair, consistent and non-discriminatory manner.

7.2 Line Managers should consider any requests for Shared Parental Leave taking into account the needs of the business. Where the request is for a discontinuous period of leave discuss alternative arrangements if necessary.

7.3 Line Managers should consider how best any period of absence could be covered, whether this is by the temporary reallocation of duties, backfill position or to gauge any risk to SEPA should the period of absence not be filled.

7.4 Line Managers must ensure that they comply with the statutory time scales in order to ensure that staff members are communicated with and within specific timeframes. They must also ensure that they advise HR of the outcome of all requests.

7.5 Line Managers are responsible to agree with the employee arrangements for a reasonable level of contact; including KIT days during the period of absence.

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- 7.6 Employees are responsible for ensuring that they familiarise themselves with this policy and associated statutory requirements for notification of leave requests.
- 7.7 Employees are responsible for discussing with line manager any requests for periods of leave.
- 7.8 Employees should agree any requirements for KIT days with their line manager.
- 7.9 Employees should consider any annual leave requirements on prior to their return from a period of shared parental leave.
- 7.10 HR are responsible for advising managers and employees on this policy and ensuring that this policy is accessible and available for all employees.
- 7.11 HR will communicate with staff members in writing the outcome of any Shared Parental Leave request.
- 7.12 HR has the responsibility for ensuring that this policy continues to comply with legislative requirements. They are also responsible for providing appropriate and consistent advice on the application of this policy, and monitoring its use in SEPA.

8. Policy Review

- 8.1 HR will monitor the number and outcome of all requests for Shared Parental Leave and Pay.
- 8.2 The Shared Parental Leave policy will be subject to periodic review and updated by HR as appropriate to ensure ongoing legislative compliance. The outcome of any policy review will be reported to the Joint Negotiation and Consultation Committee (JNCC) and any suggested amendments to the policy will be subject to consultation with Unison.

9. Associated documents

- 9.1 Form A - Notice of curtailment of maternity/ adoption leave and intention to take shared parental leave.
- 9.1.2 Form B – Notice to take or vary a period of shared parental leave.
- 9.1.3 Form C – Notice to end a period of shared parental leave and or pay.

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